



# MONTANA LEGISLATIVE BRANCH

## Legislative Fiscal Division

Room 110 Capitol Building ? P.O. Box 201711 ? Helena, MT 59620-1711 ? (406) 444-2986 ? FAX (406) 444-3036

Legislative Fiscal Analyst  
CLAYTON SCHENCK

DATE: September 5, 2001  
TO: HJR 1 Study Committee  
FROM: Legislative Staff  
RE: Draft HJR 1 Study Plan

The following outline summarizes a draft study plan to implement House Joint Resolution 1 (HJR 1), which requires several standing and interim committees of the legislature to study the public mental health system. The draft outline is intended to serve as a discussion and decision guide for the study committee to finalize and adopt a study plan.

The outline includes several types of information. First the goals of the draft study plan are listed, so that you know what guided the development of the draft. Second, the draft study plan is laid out in a series of proposed agendas for five meetings. The goals for each meeting are listed first so that you can determine what is intended to be accomplished. The meeting agendas are divided into blocks of time (morning and afternoon). Each topic to be discussed is listed along with potential presenters (when known). The questions that should be answered for each topic are listed below the topic. This format can be easily changed to allow for goals, topics, questions and information that the study committee may wish to add or delete.

The final section of this document lists suggested oversight topics that would be reviewed at each meeting. The draft meeting agendas allow for 1 to 1.5 hours of time for oversight. Last interim, oversight topics consumed much of the study committee time. Staff would suggest that the committee prioritize oversight topics and then select the most important ones that it would hear regularly. The oversight topics can be reprioritized throughout the study to address emerging issues.

### Goals that Guided Development of the Draft Study Plan

- ?? Meet the directives of HJR 1
- ?? Identify an area of study that:
  - o Is important to the mental health system and “do-able” within the study time frame
  - o Will compliment but not duplicate what other players are considering
  - o Will identify potential changes to mental health services that are compatible with any regional system design
  - o Will provide meaningful recommendations to the Legislative Finance Committee (LFC) to forward to the 2003 legislature
- ?? Provide new committee members the education and background that continuing members received during the last interim

## PROPOSED/DRAFT MEETING GOALS, AGENDAS, TOPICS

### First meeting (1.5 days)

#### *Goals of meeting:*

- ?? Adopt a study plan, including tentative meeting dates and standing agenda items related to oversight function, including the types of information desired
- ?? Gain an historical perspective of the mental health system, including legislation passed by the 2001 legislature
- ?? Learn about other groups' activities that are germane to public mental health services: Mental Health Oversight Advisory Council (MHOAC); SB 454 work group for children's services; outcomes work group; Olmstead work group; SJR 5
- ?? Learn about mental illness in adults and serious emotional disturbance in children
- ?? Learn about the current state service system and funding and how adults and children enter into the public mental health system
- ?? Learn about a recent Montana Supreme Court case concerning effective legal representation for mental health commitments and potential impacts of the decision
- ?? Identify potential issues for further study/recommendation to 2003 legislature that may arise during the meeting

## PROPOSED MEETING AGENDA

### Afternoon (first day)

- ?? Introduction and welcome (Chairman Keenan)
- ?? Election of vice chairman
- ?? Review HJR 1 (Chairman Keenan and legislative staff)
  - ? What does HJR 1 require
- ?? Mental health primer
  - ? What is mental illness in adults
  - ? What is the difference between a personality disorder and mental illness
  - ? How frequently do persons with a mental illness also have a chemical dependency problem
  - ? What is a serious emotional disturbance (SED) in children
- ?? Recent history of the mental health system starting just prior to the statewide managed care contract through legislation passed by 2001 legislature (Director Chuck Swysgood and Dan Anderson and Susan Fox and Lois Steinbeck)
  - ? What are the major forces that shaped the current mental health system
  - ? What does the mental health legislation passed by the 2001 legislature require

### Morning (second day)

- ?? The current public mental health service system
  - ? How do adults and children enter the system and progress through it
  - ? How do they access services and how are services funded
  - ? What agency/level of government funds services

- ?? Panel discussion of recent Montana Supreme Court decision regarding effective legal representation during mental health commitment hearings
  - ? What are the implications of the decision for counties, public defenders, Montana State Hospital population
  - ? Are there potential statutory changes that the study committee could consider during its review

#### Afternoon (second day)

- ?? Discussion of roles and responsibilities of: HJR 1; Mental Health Oversight Advisory Council (MHOAC); SJR 5; SB 454 working group; outcomes work group (Susan Fox, Sheri Heffelfinger, Lois Steinbeck, Nedra Chandler – MHOAC)
  - ? What other entities are involved in shaping/studying the current mental health system and what specifically is each entity hoping to accomplish
- ?? Presentation and discussion of draft study plan, including standing oversight topics to be covered each meeting (see final section to view proposed oversight topics) (legislative staff)
- ?? Public testimony to the study committee (1.5 hours)
  - ? What are important areas of concern for stakeholders
  - ? What comments do stakeholders have regarding proposed study plan
- ?? Committee discussion and adoption of study plan and standing agenda items, including oversight topics and option for public testimony at each or specific meetings (1 hour)
- ?? Establish tentative meeting dates
- ?? Direction to staff

#### Second meeting (1 day)

##### *Goals of meeting:*

- ?? Understand funding of state mental health services and how funding impacts service delivery and access to services
- ?? Understand federal veterans' mental health services: how vets enter system; most common diagnosis; access to services; impact to and intersection with state mental health system; state legislative options to impact federal veterans' mental health services
- ?? Identify issues related to veterans' mental health services
- ?? Identify potential issues for further study/recommendation to 2003 legislature

## PROPOSED MEETING AGENDA

#### Morning

- ?? Funding state mental health services (1.5 hours - Lois Steinbeck)
  - ? What are the funding sources for public mental health services
  - ? What is the eligibility criteria for services
  - ? How does funding affect access to services, the types of services offered, and eligibility

- ? What can a state do to make federal funding more flexible
- ? What options exist for expanding use of federal funds for mental health services – either to offset general fund costs or minimize general fund costs if services are expanded
- ? What are the differences between the definitions of SED as used in the mental health system and emotional disturbance (ED) as used in the education system and how does it impact the mental health system

?? Oversight issues (1.5 hours)

#### Afternoon

- ?? Review basic issues related to veterans' mental health needs and services provided by the federal Veteran's Administration (VA) (2 hours - Sheri Heffelfinger; potential panel presentation)
  - ? What is the most common diagnosis for veterans with mental health services - Post Traumatic Stress Disorder (PTSD)
  - ? How do veterans enter the federal VA system and access services
  - ? What is the structure and financing of mental health services available to veterans
  - ? Who are the players VA, state DPHHS, local private providers
  - ? How does the VA provide services to persons with a dual diagnosis of chemical dependency and mental illness
  - ? Are there cost shifts to the state and counties
  - ? What can be done by the state to influence the federal VA system with regard to mental health services
  - ? Could training related to VA services be provided as part of the mental health services training funded by the 2001 legislature
- ?? Public testimony (1hour)
- ?? Identification of issues related to veterans – committee discussion (Sheri Heffelfinger) (1/2 hour)
- ?? Direction to staff

Third meeting (2 days) meet in Helena first day and Warm Springs second day

#### GOALS OF MEETING

- ?? Understand the difference between sentencing of forensic patients at the state hospital and of prisoners
- ?? Review the services provided by the state hospital, pricing of services, and revenue generated by the state hospital and the nursing care center
- ?? Understand the mental health needs of state prisoners and services provided
- ?? Review the relationship between the prison and state hospital for services and potential reimbursement options
- ?? Review discharge planning, development of mental health community service treatment plan, and follow up when person is placed in community from state hospital or prison
- ?? How are community mental health services funded for persons released from prison

- ?? Review coordination of services for persons who are both chemically dependent and mentally ill
- ?? Review use of commitment to community services in lieu of hospitalization and issue of involuntary administration of medications in a community setting
- ?? Identify issues for further analysis including (potentially): alternatives to state hospital commitment and for DPHHS director when a person has reached maximum benefit of hospitalization; identify gaps in discharge and service receipt processes

#### Morning (first day - Helena)

- ?? Review types of commitments to MSH, types of services provided, funding (2.5 hours)
  - ? What are the various types of commitments to MSH, including difference between sentencing of persons to prison versus state hospital
  - ? What is the difference between sentencing options for persons sentenced to MSH and the frequency at which their sentences are reviewed, according to statute and through verification of MSH procedures and practices
  - ? What options does Department of Public Health and Human Services (DPHHS) director have once a forensic patient has achieved maximum benefit at MSH
  - ? What is the origin of patients (county, department, Indian Health Services, private pay), number of forensic patients, number from prison, number of veterans, number of emergency admissions, average length of stay and readmissions
  - ? What kind of reimbursement options could be considered for prisoners who receive services at MSH
  - ? What is the discharge process from MSH to community mental health services
  - ? What staff at MSH develops mental health community service plan and how are community service providers involved
  - ? What preparation is there for patients to move to community mental health services
  - ? Is there follow up after discharge, if so what is the process and who is responsible
  - ? What is the potential for pricing variations for different services and different users; review revenue and MSH self sufficiency
  - ? How will MSH and nursing care center be integrated into the proposed regional mental health system
- ?? Oversight items (1 hour)

#### Afternoon second day

- ?? Review mental health service needs for prisoners (Lorene Thorson and/or invited speakers– 2.5 hours)
  - ? How many prisoners could one expect to need mental health services based on national statistics and what are the most frequently occurring diagnoses
  - ? How many receive services in Montana State Prison (MSP) and what are the most frequently occurring diagnoses
  - ? What procedures does MSP follow when a new prisoner arrives to determine if the prisoner needs mental health services or medications
  - ? What mental health related information accompanies prisoners when they are initially admitted to MSP, what entity provides the information, and what is done with the information

- ? How does MSP determine that a prisoner not previously needing mental health services now needs services
- ? What is the discharge process from prison to community mental health services
- ? What staff at MSP develops mental health community service plan and how are community service providers involved
- ? What preparation is there for prisoners to move to community mental health services
- ? Is there follow up after discharge, if so what is the process and who is responsible
- ? How are mental health services funded for prisoners
- ? How do we eliminate barriers to funding mental health services with federal funds such as Medicaid in the corrections system and how long can Medicaid funding continue once a Medicaid eligible person enters the correction system
- ? What are other funding options for mental health services in the corrections system
- ? What services are provided by MSP and local jails
- ? Do prisoners who need mental health services maintain, improve or worsen
- ?? Public testimony (1 hour)

#### Morning (second day – at Montana State Hospital – MSH)

- ?? Review use and outcomes (if any) from new community commitment legislation (1.5 hours)
  - ? What is a “community commitment”
  - ? What does current research say about community commitments
  - ? What are the civil rights and due process issues related to involuntary administration of medications
  - ? What do other states do regarding community commitments
- ?? Review evaluation of PACT program (1 hour)
  - ? What have been the outcomes of the PACT programs
  - ? Will or should other programs be developed
  - ? What are the appropriate client groups for admission to PACT
  - ? What other types of community programs could or are being developed to serve persons not appropriate for PACT
- ?? Review services for persons with both a chemical dependency and mental illness (1 hour)
  - ? Review discussion/appropriation issues from 2001 session
  - ? What processes has DPHHS established; how many persons are being served; how many providers are participating and where are the programs in Montana
  - ? How are services funded and what is expected cost of service and cost per recipient
  - ? How are outcomes measured

#### Afternoon (second day at MSH)

- ?? What is the mission of at Montana State Hospital (MSH) and how do its programs fulfill the mission (2 hours)
  - ? Tour state hospital
  - ? What services are provided by state hospital
- ?? Identify issues to be considered in issues/options phase (1.5 hours)

?? Direction to staff

#### Fourth meeting (1 day)

### GOALS OF MEETING

- ?? Understand types of risk sharing agreements that are used in managed care contracts, including potential for local providers to absorb such risk and how financial solvency is determined
- ?? Review issues and options
- ?? Select issues and options to be included in final report and decide whether to recommend statutory changes to the LFC for consideration by 2003 legislature

#### Morning

- ?? Risk sharing in the new regional mental health system (Lois Steinbeck 1.5 hours)
  - ? What are the different types of risk sharing in a managed care environment
  - ? What types of risk sharing could be or are proposed to be used in the proposed regional mental health system
  - ? Are local providers able to absorb the financial risk in such agreements
  - ? What type of oversight or review of financial solvency is required by statute prior to finalizing risk sharing contracts
- ?? Review issues identified in first three meetings and staff analysis of the options (2.5 hours)
  - ? What are the pros and cons of each option

#### Afternoon

- ?? Public testimony - pros and cons on options from various stakeholders (1.5 hours)
- ?? Executive session to select options, develop recommendations, direct staff to prepare draft legislation and study report for review at final meeting (2 hours)
- ?? Oversight items (1 hour)
- ?? Direction to staff

#### Fifth (final) meeting (1 day)

### GOAL OF MEETING

- ?? Adopt final recommendations to Legislative Finance Committee

#### Morning and afternoon

- ?? Review draft legislation and final report (2 hours)
- ?? Public testimony (2 hours)
- ?? Adopt study committee recommendations to the Legislative Finance Committee (LFC) and provide direction to staff and action on recommendations to LFC (2 hours)
- ?? Oversight issues (1.5 hours)
- ?? Direction to staff

## Suggested Oversight Topics

The following topics are suggested to fulfill the statutory requirement that the Department of Public Health and Human Services (DPHHS) report to the LFC its response to recommendations made by MHOAC and requirements in HJR 1 to review: emergent issues with respect to mental health services; development of effective and appropriate community services; and children's mental health services issues. Staff recommends that the study committee prioritize the topics or determine those that should not be undertaken. The topics are not listed in any order of priority.

- ?? MHOAC report: recommendations given to DPHHS and official DPHHS response to the recommendation
- ?? SB 454 work group: number of children in out of state mental health services by month starting in January 2001 and by responsible agency; number of children waiting for services by type of service
- ?? Mental health services appropriation compared to projected expenditures including average number of persons and average cost of each person served by service type for both adults and children for Medicaid funded services and for Mental Health Services Plan (MHSP) funded services and for Children's Basic Mental Health Services and the appropriations and projected costs for state mental health institutions
- ?? Monthly average daily population at both the state hospital and nursing care center
- ?? Number of persons on waiting list for MHSP and Children's Health Insurance Plan (CHIP)
- ?? Report from the Mental Health Services Ombudsman
- ?? Other suggested oversight topics:
  - Follow up on legislation passed by 2001 legislature to see how it is implemented (law enforcement training, video hearings, community commitments, youth services, HB 2 language)
  - Review development and administration of regional mental health structure and services
  - Review Olmstead plan
  - Review needs assessment performed by Dr. Lourie (may be one-time or could be a meeting topic)
  - Review implementation of some of the legislation that didn't pass that affects the state hospital and that the department said it could accomplish anyway - variable rates for evaluations and emergency detention, Medicare certification and EMTALA, Butte/Silver Bow and Deer Lodge Counties relations)